

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of:	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

**COMMENTS OF THE  
PUBLIC SERVICES COMMISSION OF THE US VIRGIN ISLANDS**

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The Public Services Commission of the U.S. Virgin Islands (VI PSC) respectfully submits its comments in the above referenced proceedings. Specifically, we are responding to certain issues raised in the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking released February 9, 2011.

## **Summary of Comments**

The Virgin Islands Public Services Commission (“VI PSC”) continues to support the objective of the Federal Communications Commission (“Commission” or “FCC”) to bring affordable broadband services to all residents of the United States, including insular territories.

Numerous studies have shown that there is a strong correlation between the expansion of broadband capabilities and economic growth. As an economically challenged insular area, we are vitally interested in ensuring that our residents are given a fair chance to enjoy the economic and quality of life benefits that are promised by greater access to high speed Internet and other broadband services.

For a variety of reasons, the Territory has not benefitted from broadband deployment to the same degree as most other jurisdictions. Based on information in the FCC's Internet Access Services Status Report as of June 30, 2010, the same is true of other insular areas. Federal support from the Connect America Fund ("CAF") could go a long way toward rectifying this situation. We strongly support reserving part of Phase I CAF support for the U.S. Virgin Islands and other insular areas where geographic and economic barriers have been obstacles to greater broadband deployment. Similarly, if the FCC decides to utilize a reverse auction bidding process in Phase I, bidding credits should be given to bidders that propose to deploy to insular areas. These credits should be in addition to, not in lieu of, a set-aside for the insular areas. We also support use of such bidding credits in Phase II.

We urge the FCC not to adopt rules that give preferential treatment in Phase I to the larger jurisdictions that have already engaged in intrastate access charge reform or have established state "High Cost" USF programs. The Commission should bear in mind that not all jurisdictions have the same resources or the same size or the same competitive landscape. Rural and insular areas are different from jurisdictions with greater economic development. Giving preferences to the larger jurisdictions is fundamentally unfair. Phase I funding should go to those jurisdictions where there is the greatest need.

Finally, we understand the desire of the FCC to encourage state support for broadband.

The Joint Board on Universal Service had recommended that this support be in the form of state matching funds. While this may be possible for jurisdictions with large tax bases, it is not reasonable for economically challenged areas such as the U.S. Virgin Islands.

## **Phase I CAF support should be directed to jurisdictions with the greatest need**

Numerous studies have shown that there is a strong correlation between the availability of broadband and economic development. In general, these studies suggest that there is a causal relationship between broadband expansion and employment levels, particularly in industries that rely on computer based occupations.<sup>1</sup> The national data show that industries of significance in the Virgin Islands had substantial increases in employment as broadband availability expanded. These industries include utilities, construction, agriculture, real estate rental and leasing and accommodations. There is also a very strong correlation between broadband availability and employment growth in the types of high-tech industries that the Virgin Islands hopes to attract in the future, for example, professional, scientific and technical services, finance, administrative and support services and information technology.

Unemployment in the Virgin Islands is very high and per capita incomes are very low compared to most of the U.S. Mainland. We believe greater deployment of broadband Internet access facilities will go a long way toward improving our economic situation.

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<sup>1</sup> See, for example, *Does Broadband Boost Local Economic Development*, Jed Kolko, Public Policy Institute of California, January 2010, Page 23, Table 4. .

Economic Indicator	USVI (2009)	US Mainland (2010)
Population	117,011	308,745,538
Per Capita Income	\$20,992	\$39,626
Poverty Level	23.7%	14.3%
Unemployment Rate	7.7% (8.1% est. 2010)	9.6%

According to the FCC's Internet Access Services report,<sup>2</sup> only 13,000 of the Virgin Islands' 41,000 residential households have access to connections of at least 200 Kbps, the minimum required in the "broadband" classification (but less than half the speed of most DSL lines). This represents a subscribership ratio of only 32% compared to the nationwide average of 64%. The number having access to at least 3 Mbps, the minimum goal of the ARRA, is under 1% compared to 33% for the nationwide average. ARRA defines "underserved" areas as having transmission speeds greater than 200 Kbps but under 3.0 Mbps. Thus, virtually the entire USVI is "underserved" and many areas within the Territory are "unserved."

Among the reasons for lower than average broadband penetration are the high costs of construction in our mountainous terrain and the decisions of service providers to build broadband facilities first in the potentially more lucrative, but relatively smaller population centers. Expansion of broadband capable network facilities throughout the Territory would be very expensive and would require financial assistance from outside sources such as the CAF. If this support was not available, the low per capita income and the high poverty levels would mean many consumers could not afford broadband services.

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<sup>2</sup> *Internet Access Services: Status as of June 30, 2010*, FCC Industry Analysis and Technology Division, Wireline Competition Bureau, March 2011, Tables 15 and 16

## **Phase I support should be directed to insular areas and poorer states**

We strongly support use of Phase I funds to jumpstart broadband deployment where per capita incomes are significantly below the nationwide average, where chronic unemployment and poverty levels are normally much higher than the nationwide average and where the percentage of households having access to acceptable broadband transmission speeds is unusually low.

The following table shows the ratio of households in each territory and state that are unserved by any kind of broadband connection. We urge the Commission to direct Phase I CAF support toward the insular areas<sup>3</sup> and the ten states with the greatest proportion of unserved households. This is in keeping with the FCC's goal of targeting Phase I funds to unserved areas with the greatest need. (NPRM para. 261, 267).

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<sup>3</sup> The number of connections in American Samoa, Guam and the Northern Mariannas Islands with bandwidth of at least 200 Kbps was not provided in the FCC's Internet Access Services report in order to protect the identities of the service providers. However, we believe their broadband penetration levels are comparable to those of Puerto Rico and the Virgin Islands. All of the insular areas face high construction costs and low personal incomes, two of the factors that are barriers to high broadband penetration.

Residential Fixed Connections and Households by State as of June 30, 2010 (Connections over 200 Kbps in at least one direction and households, in thousands)				
Source: FCC Internet Access Services Report as of June 30, 2010				
State	Connections	Total Households	Unserved Households	Unserved Ratio
American Samoa	-	9	9	1.00
Guam	-	39	39	1.00
Northern Marianas Islands	-	14	14	1.00
Virgin Islands	13	41	28	0.68
Puerto Rico	471	1,262	791	0.63
Total Insular Territories		1,365	881	
Mississippi	478	1,098	620	0.56
Arkansas	549	1,144	595	0.52
West Virginia	374	747	373	0.50
Alabama	980	1,867	887	0.48
Oklahoma	764	1,455	691	0.47
Tennessee	1,336	2,511	1,175	0.47
Kentucky	943	1,718	775	0.45
New Mexico	418	759	341	0.45
Louisiana	948	1,694	746	0.44
Idaho	323	575	252	0.44
Total 10 States With Highest Percent Unserved		13,568	6,455	
Georgia	2,095	3,697	1,602	0.43
Missouri	1,357	2,374	1,017	0.43
South Dakota	182	317	135	0.43
South Carolina	1,030	1,783	753	0.42
Indiana	1,446	2,493	1,047	0.42
Montana	232	394	162	0.41
Texas	5,309	8,977	3,668	0.41
Wyoming	131	219	88	0.40
Michigan	2,281	3,808	1,527	0.40
Nevada	616	1,008	392	0.39
Iowa	740	1,197	457	0.38
North Dakota	164	262	98	0.37
Nebraska	447	709	262	0.37
Wisconsin	1,400	2,220	820	0.37
Kansas	696	1,101	405	0.37
Illinois	3,040	4,803	1,763	0.37
Oregon	964	1,522	558	0.37
Ohio	2,877	4,540	1,663	0.37
Arizona	1,566	2,454	888	0.36
North Carolina	2,395	3,737	1,342	0.36
Minnesota	1,321	2,046	725	0.35
Virginia	1,985	3,052	1,067	0.35
Utah	586	894	308	0.34
District of Columbia	177	270	93	0.34
Washington	1,748	2,615	867	0.33
Pennsylvania	3,328	4,927	1,599	0.32
Alaska	171	252	81	0.32
Maine	368	539	171	0.32
Colorado	1,361	1,978	617	0.31
Vermont	171	248	77	0.31
Florida	5,106	7,344	2,238	0.30
California	8,798	12,634	3,836	0.30
New York	5,201	7,339	2,138	0.29
Rhode Island	291	410	119	0.29
Maryland	1,542	2,158	616	0.29
Delaware	250	343	93	0.27
Connecticut	1,024	1,358	334	0.25
Massachusetts	1,962	2,568	606	0.24
New Jersey	2,501	3,192	691	0.22
New Hampshire	404	513	109	0.21
Hawaii excluded due to withholding of data by FCC to maintain firm confidentiality.				



## **Some Phase I CAF support should be reserved for insular areas**

The NPRM asks (Para. 306) if some part of Phase I CAF support should be reserved for insular areas. Although the Commission notes that it has never defined the term “insular” in the context of the universal service programs,<sup>4</sup> we believe the U.S. Virgin Islands certainly falls within that classification. We strongly support such a set-aside because it will help the Virgin Islands, and the other insular areas, close the gap between its current low level of broadband deployment and the nationwide target set in the FCC’s National Broadband Plan.

We agree with the comments of Puerto Rico Telephone Company<sup>5</sup> and PR Wireless<sup>6</sup> in WC Docket No. 10-90 that the geographic and economic challenges faced by insular areas like the Virgin Islands warrant special consideration by the Commission. All of the insular territories are physically remote and have difficult terrain and weather conditions. The resulting high costs make it difficult to build a business case for deploying broadband infrastructure, especially when low incomes and unemployment would keep subscribership low. We also agree with Puerto Rico Telephone Company that the Commission should give priority to insular areas until they reach the same level of penetration as other areas.<sup>7</sup>

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<sup>4</sup> It is clear that the intent of Congress was to include all U.S. Territories under Section 254. The Conference Report that accompanied the Telecommunications Act of 1996 refers to inclusion of insular areas to include the Pacific island territories.

<sup>5</sup> *Comments of Puerto Rico Telephone Company, Inc.*, WC Docket No. 10-90, filed July 12, 2010, pages 5-7

<sup>6</sup> *Reply Comments of PR Wireless, Inc.*, WC Docket No. 10-90, filed August 11, 2010, page 4

<sup>7</sup> *Reply Comments of Puerto Rico Telephone Company, Inc.*, WC Docket No. 10-90, filed August 11, 2010, page 3.

Assuming that a separate fund for insular areas was created in Phase I, the Commission asks what level of funds should be provided. It is difficult to quantify the exact amount that should be set aside. Ultimately, the service providers interested in receiving CAF support would have to prepare and submit bid packages. In the meantime, however, we suggest that the initial insular funding should be set based on the following formula:

- A.) First determine the number of unserved households in the insular areas and in the ten states with the highest ratio of unserved households. This information is obtainable from Form 477 data. Using the table above, the total unserved households in insular areas is 881 and the total number of unserved households in the ten states with the lowest penetration is 6,455.
- B.) Divide the number of insular unserved households (881) by the sum of insular and lowest ten states unserved households ( $881+6,455=7,336$ ) to get the insular support ratio (0.12).
- C.) Multiply the total annual Phase I CAF available<sup>8</sup> by the insular support ratio to estimate the amount of support to be set aside for insular areas in total. Per the Corr Wireless Order, the amount of USF relinquished by Verizon and Sprint was estimated at \$530 million to be reduced 20% per year. The FCC has also proposed several reforms to IAS support and other high cost funds which may produce additional savings. Thus, the size of Phase I funding in the first year should be on the order of \$100-\$200 million. Using the formula above \$12-24 million would be reserved for insular areas in the first year.

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<sup>8</sup> This amount may be determined after funds for Tribal Lands and Alaska Native Regions have been allocated.

D.) The amount to be awarded to each insular territory should be based on an analysis of bids submitted. The projects that extend broadband to the greatest number of households at the least cost should be funded first.

## **Bidding credits should be given to bidders that will serve insular areas**

The FCC asks whether Phase I bidding credits (additional weighting) should be given to bidders that propose to deploy to insular areas. (NPRM para. 307) The Commission asks if such credits should be an alternative to a set aside of funds for insular areas or should be in addition to a set aside. We strongly support giving bidding credits to those who would deploy to insular areas but do not believe such credits alone would be sufficient. Since the FCC may decide to consider bid packages that span multiple geographic areas or jurisdictions, there is no assurance that the insular portion of a package would be sufficient. Reserving a substantial amount of Phase I funds specifically for insular areas is far more likely to actually result in competing bids to build the necessary broadband infrastructure in those areas.

The Commission also asked if bidding credits should be given in Phase II to bidders that will deploy in insular areas. (NPRM para. 421) Again, we support such credits because they would make infrastructure construction in the Virgin Islands more attractive to potential bidders. In the absence of such incentives, it is possible there could be no bidders due to the higher cost of deploying in difficult terrain.

## **The FCC should not put insular areas at a disadvantage relative to larger and more economically developed states**

The FCC asks whether to restrict Phase I CAF support to those states that have already engaged in intrastate access charge reform or that have established high cost universal service or other broadband support mechanisms. (NPRM para. 270, 297, 298) Then, the Commission asks if it should give preference to Tribal Lands regardless of the actions of the states regarding access charge reform. (NPRM para. 298) Alternatively, the FCC asks if all states should be treated equally. (NPRM para.400).

The FCC must recognize that not all states or jurisdictions are equal in size, geography, topography, resources, level of competition or number of service providers. Small jurisdictions like the U.S. Virgin Islands do not have intrastate toll calling. Therefore, they do not have an intrastate access charge mechanism to reform. They often have few competitors to share the costs of intrastate universal service or the regulator may lack the legal authority to impose an intrastate universal service charge on any provider other than the incumbent local exchange carrier. Further, small jurisdictions may not contain both high cost and low cost areas. Therefore, intrastate high cost universal service programs may not be appropriate in smaller jurisdictions.

CAF funds should be used where there is the greatest need. Priority should be given to areas with the lowest broadband penetration rate and the lowest income jurisdictions. These are the areas where businesses are least likely to invest without support. If preferences were given on the actions of state regulators, the gap between wealthier and poorer jurisdictions will get wider.

## **Small states lack the resources to provide matching funds**

The FCC recognized that advancing universal service was the shared responsibility of both federal and state regulators. The Joint Board on Universal Service had recommended that the Commission encourage the states to provide matching funds to support broadband and mobility initiatives and the FCC has asked what level of funding it could expect from the states, particularly those states that were disproportionately rural and lacking the population to support service in rural areas. (NPRM para. 86).

All of the insular areas are disproportionately rural and per capita incomes are substantially lower than on the U.S. Mainland. As a result, insular governments lack the resources to provide matching funds on any significant level. Most are facing severe budget issues as a result of the shrinking economy and other factors that affect the dominant industry in each insular area.

Matching funds cannot realistically be raised through assessments on our carriers even where the enabling legislation for the state regulatory agency would permit such assessments. The assessments would be passed through to consumers who would likely cut back on services. The linkage between prices and universal coverage has been well known and was the basis for federal universal service policies for decades.

## **Conclusion**

The FCC has embarked on an enormously complicated and far reaching effort to bring broadband to all parts of the country while simultaneously reforming the entire structure of intercarrier compensation. These are daunting tasks and we thank the Commission for

questioning the impacts of some proposals on insular areas such as the U.S. Virgin Islands.

However, we urge the Commission to proceed with some caution to prevent unintended consequences.

Phase I should be focused on providing CAF support for those areas that need it most. We believe the U.S. Virgin Islands falls into that category, along with the other insular territories. We believe the goals of Phase I can best be realized by limiting support to the insular areas and the ten states with the lowest broadband participation. Accordingly, we strongly support a Phase I set aside for insular territories and bidding credits in both Phase I and Phase II for any carrier that wishes to build broadband facilities here.

Respectfully submitted,

The Virgin Islands Public Services Commission

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